

Assembly Bill No. 2476

Passed the Assembly May 14, 2012

Chief Clerk of the Assembly

Passed the Senate June 28, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 405 of the Military and Veterans Code, relating to military service.

LEGISLATIVE COUNSEL'S DIGEST

AB 2476, Committee on Veterans Affairs. Service member obligations or liabilities: rate of interest.

Existing law provides certain legal rights for service members, including with regard to credit agreements, interest liabilities, and mortgages and trusts. Existing law prohibits an obligation or liability bearing interest at a rate in excess of 6% per year incurred by a service member before that person's entry into service from bearing interest at a rate in excess of 6% per year during any part of the period of military service, except as prescribed. Existing law provides that a person who violates this rate of interest provision is liable for actual damages, reasonable attorney's fees, and costs incurred by an injured party.

This bill would, in addition, recast these provisions to prohibit an obligation or liability consisting of a mortgage, trust deed, or other security in the nature of a mortgage, that is bearing interest at a rate in excess of 6% per year and incurred by a service member before that person's entry into service from bearing interest in excess of 6% per year for one year after any part of the period of military service.

The people of the State of California do enact as follows:

SECTION 1. Section 405 of the Military and Veterans Code is amended to read:

405. (a) No obligation or liability bearing interest at a rate in excess of 6 percent per year incurred by a service member before that person's entry into service shall, except as provided in subdivision (b), bear interest at a rate in excess of 6 percent per year as follows:

(1) For an obligation or liability consisting of a mortgage, trust deed, or other security in the nature of a mortgage, during any part of the period of military service and one year thereafter.

(2) For any other obligation or liability, during any part of the period of military service.

(b) Notwithstanding subdivision (a), if in the opinion of a court, upon application thereto by the obligee, the ability of the service member to pay interest upon an obligation or liability at a rate in excess of 6 percent per year is not materially affected by reason of that service, the court may make that order as in its opinion may be just.

(c) As used in this section, “interest” includes service charges, renewal charges, fees, or any other charges, except bona fide insurance, in respect of any obligation or liability.

(d) Any person violating this section shall be liable for actual damages, reasonable attorney’s fees, and costs incurred by the injured party.

Approved _____, 2012

Governor